



## FACT SHEET ON TELEPHONE COMMUNICATIONS

The City's Election Campaign Control Ordinance [ECCO] includes laws regarding telephone communications (e.g., "phone banks") used to support or oppose City candidates and ballot measures. New state laws regulating telephone communications have superseded, in part, some of the relevant provisions in ECCO. In particular, California law now requires in some circumstances a "paid for by" disclosure instead of ECCO's "on behalf of" disclosure. This fact sheet has been updated to reconcile ECCO with California law until ECCO is amended to be fully consistent with state requirements.

- ❖ Candidate and committees making telephone calls to more than 500 individuals or households for the purpose of supporting or opposing a City candidate or ballot measure must include in their telephone communications information disclosing the name of each candidate or committee paying for any of the resources used for the call.
- ❖ These kinds of telephone calls must include a statement that the calls are "paid for by," "authorized by," or are otherwise being made "on behalf of" immediately followed by the name of each candidate or committee that is paying for any of the resources used for the communications (e.g., the purchase of a contact list, the development of a script, overhead expenses, and telephone charges).
- ❖ The applicable disclosure is determined by the following criteria:
  - ✓ A call is **"paid for by"** a candidate or committee when the candidate or committee pays directly for the call or pays another person to make the call on its behalf.
  - ✓ A call is **"authorized by"** a candidate or committee if a person pays for the call at the behest of the candidate or committee and that payment is a contribution to the candidate or committee.
  - ✓ Notwithstanding the above two bullets, a call is made **"on behalf of"** a candidate or committee when it is made by a volunteer at the direction of the candidate or committee.
- ❖ A call is subject to one of the above disclosure requirement if a reasonable person would conclude that the call was intended to support or oppose a City candidate or ballot measure.
- ❖ The disclosure statement must be clearly audible and at the same volume and speed as the rest of the call.
- ❖ If the communication is paid for by a candidate-controlled committee, then the name of the candidate must be included in the disclosure.
- ❖ The 500-call threshold applies to each election. In other words, calls made to support a candidate for a primary election do not count toward the number of calls made to support the candidate in a general election.

- ❖ All calls made to support or oppose a candidate or ballot measure count toward the 500-call threshold, even if a different message is communicated on different occasions.
- ❖ A call made to support or oppose a candidate or ballot measure counts toward the 500-call threshold even if it is answered by a machine or if the person answering the call hangs up the telephone before the entire message is communicated. A call that concludes without any connection (busy signal or no answer) to the party being called does not count toward the 500-call threshold.
- ❖ For purposes of the 500-call threshold, calls made to oppose a candidate are combined with calls made to support the candidate's opponent. For example, 400 calls supporting Candidate A and 200 calls opposing Candidate B (who is running against Candidate A in the election) would exceed the 500-call threshold.
- ❖ Each candidate or committee paying for the resources used to make the telephone communications must maintain a transcript of the message communicated as well as a record of the number of calls made for each message.
- ❖ If two committees jointly pay for telephone communications supporting or opposing a City ballot measure, then each committee must be identified in the "on behalf of" disclosure. (Please see the Ethics Commission's Fact Sheet on Campaign Advertising for additional information regarding two committees coordinating independent expenditures.)
- ❖ A committee making independent expenditures may not pay for telephone communications at the behest of, or in coordination with, a candidate or candidate-controlled committee. (Doing so would constitute an unlawful in-kind contribution; organizations may not make contributions to support or oppose candidates.)
- ❖ A candidate who personally engages in a live telephone communication is not subject to these disclosure requirements.
- ❖ An organization that is registered with the state as a political committee is subject to these disclosure requirements, even when making telephone communications to its own members.
- ❖ Note that the Ethics Commission does not regulate the truth or accuracy of the content of telephone communications (i.e., it has no control over the dissemination of false or misleading information).

For additional information, please contact the Ethics Commission at (619) 533-3476.

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